

Introduced by Senator Ducheny

February 23, 2006

An act to add Section 9611 to the Business and Professions Code, relating to cemeteries.

LEGISLATIVE COUNSEL'S DIGEST

SB 1490, as introduced, Ducheny. Cemetery Regulation.

Existing law establishes the Cemetery and Funeral Bureau within the Department of Consumer Affairs and sets forth its powers and duties, including, but not limited to, licensing and regulating a cemetery manger, salesperson, or broker, and its powers to audit and inspect the cemeteries. Violation of related provisions is a crime.

Existing law establishes certain requirements for private cemeteries, including, but not limited to, the requirement that notice be provided regarding a change in ownership of any cemetery authority, establishes certain requirements for administration of private endowment care cemeteries, and establishes maintenance and investment requirements applicable to the endowment care trust funds.

This bill would, with certain exceptions, require a seller of a cemetery to report the sale to the county recorder, would require the county recorder to establish and update an index of all cemetery properties and to make the index available for public inspection, and would require the bureau to annually report to each county recorder all properties that are operated as cemeteries for inclusion within the cemetery index. By establishing these new requirements upon the county recorder, and by changing the definition of related crimes, this bill would impose a state-mandated local program.

This bill would require the bureau to adopt regulations to ensure that the private endowment care cemeteries are properly maintained and that endowment care funds are properly managed, to ensure that the

cemeteries are audited and inspected to determine compliance, and to assess the owner a civil penalty not to exceed ____ dollars for each violation. The bill would require the Attorney General to commence a civil action on behalf of the bureau to collect the penalties and reasonable attorney's fees and court costs.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9611 is added to the Business and
- 2 Professions Code, to read:
- 3 9611. (a) A seller of a cemetery shall report the sale to the
- 4 county recorder of the county or counties where the cemetery is
- 5 located.
- 6 (b) The county recorder of each county shall do all of the
- 7 following:
- 8 (1) Establish an index of all cemetery properties located within
- 9 that county. The index shall be available for public inspection.
- 10 (2) Record the transfer of ownership in the cemetery index.
- 11 (c) The bureau shall do all of the following:
- 12 (1) Annually report to each county recorder all properties that
- 13 are operated as cemeteries for inclusion within the cemetery
- 14 index.
- 15 (2) Adopt regulations to ensure that the private endowment
- 16 care cemeteries are properly maintained and that endowment care
- 17 funds are properly managed, and to ensure that the cemeteries are
- 18 audited and inspected to determine compliance.
- 19 (3) Assess the owner a civil penalty not to exceed ____ dollars
- 20 (\$____) for each violation of this section.

1 (d) The Attorney General shall commence a civil action on
2 behalf of the bureau to collect penalties assessed pursuant to this
3 section, including, but not limited to, reasonable attorneys fees
4 and court costs.

5 (e) This section does not apply to a cemetery owned by a
6 church or religious society or denomination, or by a corporation
7 sole that is established to administer the temporalities of any
8 church or religious society or denomination.

9 SEC. 2. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution for
11 certain costs that may be incurred by a local agency or school
12 district because, in that regard, this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the
14 penalty for a crime or infraction, within the meaning of Section
15 17556 of the Government Code, or changes the definition of a
16 crime within the meaning of Section 6 of Article XIII B of the
17 California Constitution.

18 However, if the Commission on State Mandates determines
19 that this act contains other costs mandated by the state,
20 reimbursement to local agencies and school districts for those
21 costs shall be made pursuant to Part 7 (commencing with Section
22 17500) of Division 4 of Title 2 of the Government Code.